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TREATY ON THE INTERNATIONAL REGISTRATION OF AUDIOVISUAL WORKS

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE TREATY ON THE INTERNATIONAL REGISTRATION OF AUDIOVISUAL WORKS, DONE AT GENEVA ON APRIL 20, 1989

JANUARY 25, 1990.—Treaty was read the first time, and together with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed for the use of the Senate

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LETTER OF TRANSMITTAL

THE WHITE HOUSE, *January 24, 1990.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty on the International Registration of Audiovisual Works done at Geneva on April 20, 1989. I also transmit, for the information of the Senate, the report of the Department of State with respect to the Treaty.

The Treaty establishes a multilateral system to facilitate enforcement of rights and to increase legal security concerning audiovisual works in foreign countries and to contribute to the fight against piracy. Essentially, the Treaty is administrative and procedural in nature; it is not a copyright treaty and therefore would not affect substantive national copyright laws. The registration system is voluntary and may be used at the option of the producer of audiovisual works.

As noted in the report of the Department of State, United States ratification of the Treaty would not require any amendments to the copyright laws of the United States or any other implementing legislation.

I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

GEORGE BUSH.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, December 22, 1989.

The PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit to you, with a view to its transmission to the Senate for advice and consent to ratification, the Treaty on the International Registration of Audiovisual Works of April 20, 1989. On the basis of a recommendation in September 1987 by the Governing Bodies of the World Intellectual Property Organization (WIPO), a Specialized Agency of the United Nations, committees of experts were convened in March 1988 and in November 1988 in preparation for a Diplomatic Conference held in Geneva, April 10–20, 1989. The United States participated in the preparatory meetings and the Conference. The United States and seven other nations signed the Treaty at the conclusion of the Diplomatic Conference on April 20, 1989. It will enter into force after five nations have deposited their instruments of ratification or accession; none has yet done so.

The purpose of the Treaty is to facilitate enforcement of rights and increase the legal security in transactions relating to audiovisual works and to contribute to the fight against piracy. The Treaty provides for the establishment of an international register for applications and related materials concerning the exercise of rights in audiovisual works such as motion pictures and television programs, including in particular rights relating to their exploitation. Statements recorded in the International Register are given prima facie effect in countries party to the Treaty. Public access to the elements entered into the international system will be facilitated by publication in a timely gazette. A comprehensive database of rights owners will also be maintained from which WIPO will be able to provide information electronically to interested parties. The International Bureau of the World Intellectual Property Organization will serve as the secretariat for the Treaty.

Essentially, this Treaty is procedural in nature; it is not a substantive copyright treaty and explicitly provides that it shall not be interpreted as affecting national copyright laws. The International Register established by the Treaty is voluntary in the sense that it may be used at the option of the producers or rightsholders of audiovisual works. Further, there are to be no financial contributions from governments; rather the International Register is to be self-financing from the payment of fees for registration and other services, and the sale of publications such as the Gazette. The start-

up costs are to be born by the Government of Austria and the International Register will be located in Austria.

Following is a summary of the text of the Treaty.

Article 1 establishes a "Union" of the Contracting States for the international registration of audiovisual works.

Article 2 defines an "audiovisual work" as one consisting of "a series of fixed related images, with or without accompanying sound, susceptible of being made visible and, where accompanied by sound, susceptible of being made audible."

Article 3 provides for the establishment of the International Register for the purpose of recording statements concerning the identity of audiovisual works (e.g., title, producer, director) and rights in such works (e.g., reproduction, distribution, public performance). This article also provides for an administrative unit called the International Registry, which is to be located in Austria. In this regard, a bilateral agreement has been concluded between the Government of Austria and WIPO. Only applicants from Contracting States may file an initial application for inclusion of a statement in the International Register but subsequent applications relating to previous registrations may be filed by any person or legal entity.

Article 4 is the most important article in the Treaty in that it deals with the legal effects of statements recorded in the International Register. As a general rule each Contracting State undertakes to recognize that a statement recorded in the International Register shall be considered true until the contrary is provided. However, this principle is subject to two exceptions. Article 4(1)(i) makes an exception for cases where under a Contracting State's copyright or other intellectual property law the statement cannot be valid. The second exception, Article 4(1)(ii), applies in cases where the statement is contradicted by another statement recorded in the International Register. Article 4(2) is a safeguard clause that provides that the Treaty does not affect the copyright law, or other intellectual property law, of any Contracting State or any rights under the Berne Copyright Convention for the Protection of Literary and Artistic Works or any other treaty concerning intellectual property rights.

Article 5 provides for an Assembly consisting of all the Contracting States and sets forth in detail the various "tasks" of that body, including the establishment of a consultative committee of representatives of non-governmental organizations with an interest and expertise in audiovisual works. This committee will have an important advisory role concerning registration fees and the Administrative Instructions which govern the administration of the Treaty and the Regulations.

Pursuant to Article 5(7) most of the decisions of the Assembly will be taken by a simple majority vote except for amendments of the Regulations, which require a two-thirds vote, and amendments of certain articles regarding the Assembly itself and finances, which require a three-fourths vote.

In order to encourage adherence to the Treaty, the expenses of one delegate to the Assembly from each Contracting State shall be paid from funds of the Union.

Article 6 relates to the International Bureau, and its various tasks, including keeping the International Register.

Article 7 concerns finances of the Union with particular reference to the budget of the Union which shall be financed from non-governmental sources, including fees and other charges for services, sales of publications, and voluntary donations.

Article 8 provides that the Regulations, annexed to the Treaty, are adopted at the same time as the Treaty. These regulations may be amended, as necessary, by the Assembly by a two-thirds majority of the votes cast.

Article 9 states that the Treaty may be revised by a conference of the Contracting States, which is to be convoked by the Assembly. Certain non-substantive articles may be revised either in a revision conference or according to a procedure elaborated in Article 10.

Article 10 sets forth the procedure for revision of a number of non-substantive articles by the Assembly. Amendments to these articles are to be adopted by three-fourths of the votes cast in the Assembly and subsequently must be accepted by three-fourths of the Contracting States by written notification of acceptance to the Director General of WIPO. (Any such amendment will be binding on all Contracting States parties to the Treaty at the time the amendment was adopted.) This two-step procedure is intended to safeguard against any precipitous action by the Assembly, while ensuring that non-substantive changes may be made within a reasonable period of time.

Article 11 provides that the Treaty is open to member States of the World Intellectual Property Organization.

Article 12 provides that the Treaty shall enter into force three months after five States have ratified or acceded to the Treaty.

Article 13 provides that no reservations may be made to the Treaty with one exception. A State may declare that it will not apply Article 4(1) on the prima facie effect of statements recorded in the International Register to statements which do not concern the exploitation of intellectual property rights in audiovisual works (e.g., statements about mortgages or liens).

Article 14 allows a Contracting State to denounce the Treaty which shall take effect one year after notification to the Director General. However, a Contracting State must be a party to the Treaty for at least five years before it can denounce the Treaty.

Article 15 provides that the Treaty shall remain open for signature until December 31, 1989.

Article 16 sets forth the role of the Director General of WIPO as the depositary of the Treaty.

Article 17 requires the Director General to notify member States about certain events referred to in various articles (e.g., amending the Regulations).

Following is a summary of the Regulations which are annexed to the Treaty and which were approved at the Diplomatic Conference.

Rule 1 contains the "definitions" for the purposes of the Regulations (e.g., "work-related application", "person-related application").

Rule 2 sets forth in detail the requirements for a "person-related application" and a "work-related application." Applications may be filed in English or French.

Rule 3 covers the processing and examination of applications. For an application to be accepted, the applicant must state the

source of his right and must also state whether that right was originally vested in him or was derived from another. If the right was derived from another, the applicant must give the name and address of the natural person or legal entity from whom the right was obtained and must describe the legal means by which he obtained it. Additionally, the applicant must state that the statements are to the best of the applicant's knowledge true and that accompanying documents are originals or true copies of originals. If such statements are not present, the application will be rejected. The Rule sets out a specific procedure whereby corrections regarding inadvertent omissions, conflicting statements, etc., may be made within 30 days of an invitation by the International Registry. This rule also provides a procedure to resolve contradictions between applications within 60 days.

Rule 4 provides that each application shall have a filing date and a registration number.

Rule 5 states that where an application is not rejected all statements contained in the application will be registered in the International Register and the registration will be published in "the Gazette."

Rule 6 relates to "the Gazette" in which the prescribed elements of all registrations will be published. The Gazette will be in English except that elements regarding applications that were filed in French will also be in French.

Rule 7 provides that the International Registry will provide information regarding any registration, certified copies of any registration certificates, and other services (e.g., a monitoring service) for which fees will be charged.

Rule 8 concerns fees which are to be determined by the Director General after consulting the Consultative Committee. The fees are subject to review and change by the Assembly. Fees for applicants from developing countries who are Contracting States will be reduced initially by 15 percent with the possibility of further reductions by the Assembly.

Rule 9 provides for Administrative Instructions regarding the Treaty and the Regulations to be drawn up, or modified, by the Director General after consultation with the Consultative Committee. The Instructions and any modifications will be published in the Gazette.

United States ratification will not require any amendments to the U.S. copyright law, or any other implementing legislation.

Ratification of the Treaty on the International Registration of Audiovisual Works is supported by the Copyright Office, as the principal substantive agency interested in the Treaty. In the private sector the American Film Marketing Association, a trade association representing 111 member companies who license the distribution rights of American independent films in the international market, strongly supports expeditious ratification. The Motion Picture Association of America has no official position on the Treaty.

I recommend that you forward this Treaty to the Senate for its early advise and consent to ratification.

Respectfully submitted,

LAWRENCE EAGLEBURGER.

Treaty on the International Registration of Audiovisual Works

of April 20, 1989

World Intellectual Property Organization
GENEVA 1989

(1)

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Treaty on the International Registration of Audiovisual Works

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The Contracting States

Desirous to increase the legal security in transactions relating to audiovisual works and thereby

to enhance the creation of audiovisual works and the international flow of such works and

to contribute to the fight against piracy of audiovisual works and contributions contained therein;

Have agreed as follows:

CHAPTER I

SUBSTANTIVE PROVISIONS

Article 1

Establishment of the Union

The States party to this Treaty (hereinafter called "the Contracting States") constitute a Union for the international registration of audiovisual works (hereinafter referred to as "the Union").

Article 2

"Audiovisual Work"

For the purposes of this Treaty, "audiovisual work" means any work that consists of a series of fixed related images, with or without accompanying sound, susceptible of being made visible and, where accompanied by sound, susceptible of being made audible.

Article 3

The International Register

(1) [*Establishment of the International Register*] The International Register of Audiovisual Works (hereinafter referred to as "the International Register") is hereby established for the purpose of the registration of statements concerning audiovisual works and rights in such works, including, in particular, rights relating to their exploitation.

(2) [*Setting Up and Administration of the International Registry*] The International Registry of Audiovisual Works (hereinafter referred to as "the International Registry") is hereby set up for the purpose of keeping the International Register. It is an administrative unit of the International Bureau of the World Intellectual Property Organization (hereinafter referred to as "the International Bureau" and "the Organization," respectively).

(3) [*Location of the International Registry*] The International Registry shall be located in Austria as long as a treaty to that effect between the Republic of Austria and the Organization is in force. Otherwise, it shall be located in Geneva.

(4) [*Applications*] The registration of any statement in the International Register shall be based on an application filed to this effect, with the prescribed contents, in the prescribed form and subject to the payment of the prescribed fee, by a natural person or legal entity entitled to file an application.

(5) [*Eligibility for Being an Applicant*] *(a)* Subject to subparagraph *(b)*, the following shall be entitled to file an application:

(i) any natural person who is a national of, is domiciled in, has his habitual residence in, or has a real and effective industrial or commercial establishment in, a Contracting State;

(ii) any legal entity which is organized under the laws of, or has a real and effective industrial or commercial establishment in, a Contracting State.

(b) If the application concerns a registration already effected, it may also be filed by a natural person or legal entity not satisfying the conditions referred to in subparagraph *(a)*.

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Article 4

Legal Effect of the International Register

(1) [*Legal Effect*] Each Contracting State undertakes to recognize that a statement recorded in the International Register shall be considered as true until the contrary is proved, except

(i) where the statement cannot be valid under the copyright law, or any other law concerning intellectual property rights in audiovisual works, of that State, or

(ii) where the statement is contradicted by another statement recorded in the International Register.

(2) [*Safeguard of Intellectual Property Laws and Treaties*] No provision of this Treaty shall be interpreted as affecting the copyright law, or any other law concerning intellectual property rights in audiovisual works, of any Contracting State or, if that State is party to the Berne Convention for the Protection of Literary and Artistic Works or any other treaty concerning intellectual property rights in audiovisual works, the rights and obligations of the said State under the said Convention or treaty.

CHAPTER II

ADMINISTRATIVE PROVISIONS

Article 5

Assembly

(1) [*Composition*] *(a)* The Union shall have an Assembly that shall consist of the Contracting States.

(b) The Government of each Contracting State shall be represented by one delegate, who may be assisted by alternate delegates, advisors and experts.

(2) [*Expenses of Delegations*] *(a)* The expenses of each delegation shall be borne by the Government which has appointed it, except for the travel expenses and the subsistence allowance of one delegate for each Contracting State, which shall be paid from the funds of the Union.

(3) [*Tasks*] *(a)* The Assembly shall:

(i) deal with all matters concerning the maintenance and development of the Union and the implementation of this Treaty;

(ii) exercise such tasks as are specially assigned to it under this Treaty;

(iii) give directions to the Director General of the Organization (hereinafter referred to as "the Director General"), concerning the preparation for revision conferences;

(iv) review and approve the reports and activities of the Director General concerning the Union, and give him all necessary instructions concerning matters within the competence of the Union;

(v) determine the program and adopt the biennial budget of the Union, and approve its final accounts;

(vi) adopt the financial regulations of the Union;

(vii) establish, and decide from time to time the membership of, a consultative committee consisting of representatives of interested non-governmental organizations and such other committees and working groups as it deems appropriate to facilitate the work of the Union and of its organs;

(viii) control the system and amounts of the fees determined by the Director General;

(ix) determine which States other than Contracting States and which intergovernmental and non-governmental organizations shall be admitted to its meetings as observers;

(x) take any other appropriate action designed to further the objectives of the Union and perform such other functions as are appropriate under this Treaty.

(b) With respect to matters which are of interest also to other Unions administered by the Organization, the Assembly shall make

its decisions after having heard the advice of the Coordination Committee of the Organization.

(4) [*Representation*] A delegate may represent, and vote in the name of, one State only.

(5) [*Vote*] Each Contracting State shall have one vote.

(6) [*Quorum*] *(a)* One-half of the Contracting States shall constitute a quorum.

(b) In the absence of the quorum, the Assembly may make decisions but, with the exception of the decisions concerning its own procedure, all such decisions shall take effect only if the quorum and the required majority are attained through voting by correspondence.

(7) [*Majority*] *(a)* Subject to Article 8(2)*(b)* and Article 10(2)*(b)*, the decisions of the Assembly shall require a majority of the votes cast.

(b) Abstentions shall not be considered as votes.

(8) [*Sessions*] *(a)* The Assembly shall meet once in every second calendar year in ordinary session upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of the Organization.

(b) The Assembly shall meet in extraordinary session upon convocation by the Director General, either at the request of one-fourth of the Contracting States or on the Director General's own initiative.

(9) [*Rules of Procedure*] The Assembly shall adopt its own rules of procedure.

Article 6

International Bureau

(1) [*Tasks*] The International Bureau shall:

(i) perform, through the International Registry, all the tasks related to the keeping of the International Register;

(ii) provide the secretariat of revision conferences, of the Assembly, of the committees and working groups established by the Assembly, and of any other meeting convened by the Director General and dealing with matters of concern to the Union;

(iii) perform all other tasks specially assigned to it under this Treaty and the Regulations referred to in Article 8 or by the Assembly.

(2) [*Director General*] The Director General shall be the chief executive of the Union and shall represent the Union.

(3) [*Meetings Other Than Sessions of the Assembly*] The Director General shall convene any committee and working group established by the Assembly and all other meetings dealing with matters of concern to the Union.

(4) [*Role of the International Bureau in the Assembly and Other Meetings*] *(a)* The Director General and any staff member designated by him shall participate, without the right to vote, in all meetings of the Assembly, the committees and working groups established by the Assembly, and any other meeting convened by the Director General and dealing with matters of concern to the Union.

(b) The Director General or a staff member designated by him shall be ex officio secretary of the Assembly, and of the committees, working groups and other meetings referred to in subparagraph *(a)*.

(5) [*Revision Conferences*] *(a)* The Director General shall, in accordance with the directions of the Assembly, make the preparations for revision conferences.

(b) The Director General may consult with intergovernmental and non-governmental organizations concerning the said preparations.

(c) The Director General and staff members designated by him shall take part, without the right to vote, in the discussions at revision conferences.

(d) The Director General or a staff member designated by him shall be ex officio secretary of any revision conference.

Article 7

Finances

(1) [*Budget*] *(a)* The Union shall have a budget.

(b) The budget of the Union shall include the income and expenses proper to the Union, and its contribution to the budget of expenses common to the Unions administered by the Organization.

(c) Expenses not attributable exclusively to the Union but also to one or more other Unions administered by the Organization shall be considered as expenses common to the Unions. The share of the Union in such common expenses shall be in proportion to the interest the Union has in them.

(2) [*Coordination with Other Budgets*] The budget of the Union shall be established with due regard to the requirements of coordination with the budgets of the other Unions administered by the Organization.

(3) [*Sources of Income*] The budget of the Union shall be financed from the following sources:

(i) fees due for registrations and other services rendered by the International Registry;

(ii) sale of, or royalties on, the publications of the International Registry;

(iii) donations, particularly by associations of rights holders in audiovisual works;

(iv) gifts, bequests, and subventions;

(v) rents, interests, and other miscellaneous income.

(4) [*Self-Supporting Financing*] The amounts of fees due to the International Registry and the prices of its publications shall be so fixed that they, together with any other income, should be sufficient to cover the expenses connected with the administration of this Treaty.

(5) [*Continuation of Budget; Reserve Fund*] If the budget is not adopted before the beginning of a new financial period, it shall be at the same level as the budget of the previous period, as provided in

the financial regulations. If the income exceeds the expenses, the difference shall be credited to a reserve fund.

(6) [*Working Capital Fund*] The Union shall have a working capital fund which shall be constituted from the income of the Union.

(7) [*Auditing of Accounts*] The auditing of the accounts shall be effected by one or more of the Contracting States or by external auditors, as provided in the financial regulations. They shall be designated, with their agreement, by the Assembly.

Article 8

Regulations

(1) [*Adoption of Regulations*] The Regulations adopted at the same time as this Treaty are annexed to this Treaty.

(2) [*Amending the Regulations*] *(a)* The Assembly may amend the Regulations.

(b) Any amendment of the Regulations shall require two-thirds of the votes cast.

(3) [*Conflict between the Treaty and the Regulations*] In the case of conflict between the provisions of this Treaty and those of the Regulations, the former shall prevail.

(4) [*Administrative Instructions*] The Regulations provide for the establishment of Administrative Instructions.

CHAPTER III

REVISION AND AMENDMENT

Article 9

Revision of the Treaty

(1) [*Revision Conferences*] This Treaty may be revised by a conference of the Contracting States.

(2) [*Convocation*] The convocation of any revision conference shall be decided by the Assembly.

(3) [*Provisions That Can Be Amended Also by the Assembly*] The provisions referred to in Article 10(1)*(a)* may be amended either by a revision conference or according to Article 10.

Article 10

Amendment of Certain Provisions of the Treaty

(1) [*Proposals*] *(a)* Proposals for the amendment of Article 5(6) and (8), Article 6(4) and (5) and Article 7(1) to (3) and (5) to (7) may be initiated by any Contracting State or by the Director General.

(b) Such proposals shall be communicated by the Director General to the Contracting States at least six months in advance of their consideration by the Assembly.

(2) [*Adoption*] *(a)* Amendments to the provisions referred to in paragraph (1) shall be adopted by the Assembly.

(b) Adoption shall require three-fourths of the votes cast.

(3) [*Entry Into Force*] *(a)* Any amendment to the provisions referred to in paragraph (1) shall enter into force one month after written notifications of acceptance, effected in accordance with their respective constitutional processes, have been received by the Director General from three-fourths of the Contracting States members of the Assembly at the time the Assembly adopted the amendment.

(b) Any amendment to the said Articles thus accepted shall bind all the Contracting States which were Contracting States at the time the amendment was adopted by the Assembly.

(c) Any amendment which has been accepted and which has entered into force in accordance with subparagraph *(a)* shall bind all States which become Contracting States after the date on which the amendment was adopted by the Assembly.

CHAPTER IV

FINAL PROVISIONS

Article 11

Becoming Party to the Treaty

(1) [*Adherence*] Any State member of the Organization may become party to this Treaty by:

(i) signature followed by the deposit of an instrument of ratification, acceptance or approval, or

(ii) the deposit of an instrument of accession.

(2) [*Deposit of Instruments*] The instruments referred to in paragraph (1) shall be deposited with the Director General.

Article 12

Entry Into Force of the Treaty

(1) [*Initial Entry Into Force*] This Treaty shall enter into force, with respect to the first five States which have deposited their instruments of ratification, acceptance, approval or accession, three months after the date on which the fifth instrument of ratification, acceptance, approval or accession has been deposited.

(2) [*States Not Covered by the Initial Entry Into Force*] This Treaty shall enter into force with respect to any State not covered by paragraph (1) three months after the date on which that State has deposited its instrument of ratification, acceptance, approval or accession unless a later date has been indicated in the instrument of ratification, acceptance, approval or accession. In the latter case, this Treaty shall enter into force with respect to the said State on the date thus indicated.

Article 13

Reservations to the Treaty

(1) [*Principle*] Subject to paragraph (2), no reservation may be made to this Treaty.

(2) [*Exception*] Any State, upon becoming party to this Treaty, may, in a notification deposited with the Director General, declare that it will not apply the provisions of Article 4(1) in respect of statements which do not concern the exploitation of intellectual property rights in audiovisual works. Any State that has made such a declaration may, by a notification deposited with the Director General, withdraw it.

Article 14

Denunciation of the Treaty

(1) [*Notification*] Any Contracting State may denounce this Treaty by notification addressed to the Director General.

(2) [*Effective Date*] Denunciation shall take effect one year after the day on which the Director General has received the notification.

(3) [*Moratorium on Denunciation*] The right of denouncing this Treaty provided for in paragraph (1) shall not be exercised by any Contracting State before the expiration of five years from the date on which this Treaty enters into force with respect to it.

Article 15

Signature and Languages of the Treaty

(1) [*Original Texts*] This Treaty shall be signed in a single original in the English and French languages, both texts being equally authentic.

(2) [*Official Texts*] Official texts shall be established by the Director General, after consultation with the interested Governments, in the Arabic, German, Italian, Japanese, Portuguese, Russian and Spanish languages, and such other languages as the Assembly may designate.

(3) [*Time Limit for Signature*] This Treaty shall remain open for signature at the International Bureau until December 31, 1989.

Article 16

Depositary Functions

(1) [*Deposit of the Original*] The original of this Treaty and the Regulations shall be deposited with the Director General.

(2) [*Certified Copies*] The Director General shall transmit two copies, certified by him, of this Treaty and the Regulations, to the Governments of States entitled to sign this Treaty.

(3) [*Registration of the Treaty*] The Director General shall register this Treaty with the Secretariat of the United Nations.

(4) [*Amendments*] The Director General shall transmit two copies, certified by him, of any amendment to this Treaty and the Regulations to the Governments of the Contracting States and, on request, to the Government of any other State.

Article 17

Notifications

The Director General shall notify the Governments of the States members of the Organization of any of the events referred to in Articles 8(2), 10(2) and (3), 11, 12, 13 and 14.

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Done at Geneva, on April 20, 1989.

Regulations under the Treaty on the International Registration of Audiovisual Works

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Rule 1

Definitions

For the purposes of these Regulations,

(i) "Treaty" means the Treaty on the International Registration of Audiovisual Works;

(ii) "International Register" means the International Register of Audiovisual Works established by the Treaty;

(iii) "International Registry" means the administrative unit of the International Bureau that keeps the International Register;

(iv) "work" means audiovisual work;

(v) "work-related application" means an application that identifies an existing or future work at least by its title or titles and requests that statements in respect of the interest of an identified person or identified persons in or concerning that work be registered in the International Register; "work-related registration" means a registration effected pursuant to a work-related application;

(vi) "person-related application" means an application that requests that statements in respect of the interest of the applicant, or of a third person identified in the application, in or concerning one or more existing or future work or works, described but not identified by its or their title or titles, be registered in the International Register; "person-related registration" means a registration effected pursuant to a person-related application. A work shall be considered as being described when, in particular, the person who or legal entity which has made, or is expected to make, the work is identified;

(vii) "application" or "registration"—unless qualified as "work-related" or "person-related"—means both a work-related and a person-related application or registration;

(viii) "applicant" means the natural person who or the legal entity which filed the application; "holder of the registration" means the applicant once the application has been registered;

(ix) "prescribed" means as prescribed in the Treaty, in these Regulations or in the Administrative Instructions;

(x) "Consultative Committee" means the consultative committee referred to in Article 5(3)*(a)*(vii) of the Treaty.

Rule 2

Application

(1) [*Forms*] Any application shall be filed by using the appropriate prescribed form.

(2) [*Language*] Any application shall be in the English language or in the French language. As soon as the International Register is financially self-supporting, the Assembly may determine the other languages in which applications may be filed.

(3) [*Name and Address of Applicant*] Any application shall indicate, as prescribed, the name and address of the applicant.

(4) [*Name and Address of Third Persons Referred to in the Application*] Where an application refers to a person or legal entity other than the applicant, the application shall indicate, as prescribed, the name and address of such person or legal entity.

(5) [*Title or Description of the Work*] *(a)* Any work-related application shall indicate at least the title or titles of the work. When a title is in a language other than English or French or in a script other than the Latin script, it shall be accompanied by a literal translation into English or a transliteration into Latin script, as the case may be.

(b) Any person-related application shall describe the work.

(6) [*Reference to Existing Registration*] When the application relates to a work which is the subject matter of an existing work-related registration, or to a work which is described in an existing person-related registration, the said application shall, whenever possible, indicate the registration number of the said registration. If the International Registry finds that such an indication would be possible but was not given in the application, it may, itself, indicate such number in the registration, subject to noting in the International Register that the indication comes from the International Registry rather than the applicant.

(7) [*Interest of the Applicant*] *(a)* In any work-related application, the application shall indicate the interest of the applicant in or concerning the work, whether existing or future. Where the interest consists of a right of exploitation of the work, the nature of the right and the territory for which the right belongs to the applicant shall also be indicated.

(b) In any person-related application, the application shall indicate the interest of the applicant in or concerning the described, existing or future, work or works, in particular any right that limits or negates, for the benefit of the applicant or another person, the right of exploitation of the work or works.

(c) Where the interest is limited in time, the application may express such a limit.

(8) [*Source of Rights*] Where a work-related application concerns a right in the work, the application shall indicate, where the right originally vested in the applicant, that fact, or, where the right is derived from a natural person or legal entity other than the applicant, the name and address of such person or entity and the legal cause of the derivation.

(9) [*Accompanying Documents and Identifying Material*] *(a)* Any application may be accompanied by documents supporting the statements contained in the application. Any such document in a language other than English or French shall be accompanied, in English, by an indication of the nature and essence of the document; otherwise, the International Registry shall treat the document as if it had not been attached.

(b) Any application may be accompanied by material, other than documents, susceptible of identifying the work.

(10) [*Statement of Veracity*] The application shall contain a statement to the effect that the statements contained therein are, to the knowledge of the applicant, true, and that any accompanying document is an original or is a true copy of an original.

(11) [*Signature*] The application shall be signed by the applicant or by his representative appointed as provided in paragraph (12).

(12) [*Representation*] *(a)* Any applicant or holder of the registration may be represented by a representative who may be appointed in the application, in a separate power of attorney relating to a specific application or registration, or in a general power of attorney, signed by the applicant or holder of the registration.

(b) A general power of attorney enables the representative to represent the applicant or holder of the registration in connection with all the applications or registrations of the person having given the general power of attorney.

(c) Any appointment of a representative shall be in force until it is revoked in a communication signed by the person who made the appointment and addressed to the International Registry or until it is renounced by the representative in a communication signed by the representative and addressed to the International Registry.

(d) The International Registry shall address to the representative any communication intended for the applicant or holder of the registration under these Regulations; any communication so addressed to the representative shall have the same effect as if it had been addressed to the applicant or holder of the registration. Any communication addressed to the International Registry by the representative shall have the same effect as if it had originated with the applicant or holder of the registration.

(13) [*Fees*] For each application, the applicant shall pay the prescribed fee, which must reach the International Registry not later than the day on which the application is received by the International Registry. If the fee reaches the International Registry within 30 days from the date on which the application was actually received by the International Registry, the application shall be considered as having been received by the International Registry on the date on which the fee reaches the International Registry.

Rule 3

Processing of the Application

(1) [*Corrections*] If the International Registry notices what it believes to be an inadvertent omission, two or more statements conflicting with each other, a mistake of transcription, or another obvious error, in the application, it shall invite the applicant to correct the application. Any correction by the applicant must, in order to be taken into consideration, reach the International Registry within 30 days from the date of the invitation to correct the application.

(2) [*Giving Possibility to Remove Contradictions*] *(a)* Where, in the opinion of the International Registry, any statement contained in an application is in contradiction to any statement that, on the basis of an earlier application, is the subject matter of an existing registration in the International Register, the International Registry shall immediately,

(i) where the applicant is also the holder of the existing registration, send him a notification asking him whether he wishes

to either modify the statement contained in the application or apply for the modification of the statement that is subject matter of the existing registration,

(ii) where the applicant and the holder of the existing registration are not the same, send a notification to the applicant asking him whether he wishes to modify the statement contained in the application and, at the same time, send a notification to the holder of the existing registration asking the said holder whether—in case the applicant does not wish to modify the statement appearing in the application—he wishes to apply for the modification of the statement in the existing registration.

The registration of the application shall be suspended until a modification is submitted that, in the opinion of the International Registry, removes the contradiction, but for no longer than 60 days from the date of the said notification or notifications, unless the applicant asks for a longer period, in which case it will be suspended until the expiration of that longer period.

(b) The fact that the International Registry failed to notice the contradictory nature of a statement shall not be considered as removing that nature of the statement.

(3) [*Rejection*] *(a)* In the following cases, the International Registry shall, subject to paragraphs (1) and (2), reject the application:

(i) where the application does not contain a statement which, on the face of it, shows that the requirements of Article 3(5) of the Treaty are met;

(ii) where, in the opinion of the International Registry, the application does not relate to a work, whether existing or future;

(iii) where the application does not meet any of the requirements of Rule 2(2), (3), (4), (5), (7)*(a)* and *(b)*, (8), (10), (11) and (13).

(b) The International Registry may reject the application where the application does not fulfill the prescribed conditions as to its form.

(c) No application shall be rejected for any reason other than those referred to in subparagraphs *(a)* and *(b)*.

(d) Any decision of rejection under this paragraph shall be communicated in writing by the International Registry to the applicant. The applicant may, within 30 days from the date of the communication, request in writing the International Registry to reconsider its decision. The International Registry shall reply to the request within 30 days from the date of receipt of the said request.

(4) [*Notice in the International Register of Receipt of the Application*] If, for any reason, the International Registry, within three working days from the receipt of the application, does not register the application, it shall enter into the data base of the International Registry, open for consultation to the public, the essential elements of the application, and an indication of the reason for which no registration has taken place and, if the reason is related to paragraphs (1), (2)*(a)* or (3)*(d)*, an indication of the measures taken under any of those provisions. If and when the registration is effected, the said entry in the data base shall be erased.

Rule 4

Date and Number of the Registration

(1) [*Date*] The International Registry shall allot, subject to Rule 2(13), as the filing date, to each application, the date of receipt of the application. Where the application is registered, it shall be given, as registration date, the filing date.

(2) [*Number*] The International Registry shall allot a number to each application. If the application refers to a work whose title appears in an existing work-related registration, or which is described in an existing person-related registration, the number allotted shall also contain the number of that registration. Any registration number shall consist of the application number.

Rule 5

Registration

(1) [*Registration*] Where an application is not rejected, all the statements contained therein shall, as prescribed, be registered in the International Register.

(2) [*Notification and Publication of the Registration*] Any registration effected shall, as prescribed, be notified to the applicant and published in the Gazette referred to in Rule 6.

Rule 6

The Gazette

(1) [*Publication*] The International Registry shall publish a gazette ("the Gazette") in which it shall indicate the prescribed elements in respect of all registrations. The Gazette shall be in English, provided that elements concerning applications that were filed in French shall also be in French.

(2) [*Sale*] The International Registry shall offer, against payment, both yearly subscriptions to the Gazette and single copies of the Gazette. The amount of the prices shall be fixed in the same manner as the amount of the fees is fixed according to Rule 8(1).

Rule 7

Inquiries

(1) [*Information and Copies*] The International Registry shall, against the payment of the prescribed fee, furnish information concerning any registration and certified copies of any registration certificate or document concerning such registration.

(2) [*Certificates*] The International Registry shall, against the payment of the prescribed fee, furnish a certificate answering questions about the existence, in the International Register, of statements

concerning specific matters in any registration or any document or material that has been attached to the application.

(3) [*Inspection*] The International Registry shall, against the payment of the prescribed fee, allow the inspection of any application, as well as of any document or material that has been attached to the application.

(4) [*Monitoring Service*] The International Registry shall, against the payment of the prescribed fee, give written information, during the period for which the fee was paid, on all registrations effected in respect of given works or given persons during that period. The information shall be sent promptly after each registration is effected.

(5) [*Computerized Memory*] The International Registry may input into computer memory all or part of the contents of the International Register, and, in performing any of the services referred to in paragraphs (1) to (4) or in Rule 3(4), it may rely on that memory.

Rule 8

Fees

(1) [*Fixing of the Fees*] Before determining the system and amounts of the fees, and before making any changes in that system or amounts, the Director General shall consult the Consultative Committee. The Assembly may instruct the Director General to change the said system, the said amounts, or both.

(2) [*Reduction of Fees for Applicants from Developing Countries*] The amounts of the fees shall be reduced initially by 15% where the applicant is a natural person who is a national of, or a legal entity which is organized under the laws of, a Contracting State that is regarded as a developing country in conformity with the established practice of the General Assembly of the United Nations. The Assembly shall periodically examine the possibility of increasing the percentage of the said reduction.

(3) [*Entry into Effect of Changes in the Fees*] Any increase in the amounts of the fees shall not be retroactive. The date of the entry

into effect of any change shall be fixed by the Director General or, where the change is on instruction by the Assembly, by the Assembly. Such date shall be indicated when the change is published in the Gazette. It shall not be sooner than one month after the publication in the Gazette.

(4) [*Currency and Manner of Payment*] The fees shall be paid in the prescribed manner and in the prescribed currency or, if several currencies are admitted, in the currency that the applicant chooses among the said currencies.

Rule 9

Administrative Instructions

(1) [*Scope*] *(a)* The Administrative Instructions shall contain provisions concerning details in respect of the administration of the Treaty and these Regulations.

(b) In the case of conflict between the provisions of the Treaty or these Regulations and those of the Administrative Instructions, the former shall prevail.

(2) [*Source*] *(a)* The Administrative Instructions shall be drawn up, and may be modified, by the Director General after consultation of the Consultative Committee.

(b) The Assembly may instruct the Director General to modify the Administrative Instructions, and the Director General shall modify them accordingly.

(3) [*Publication and Entry into Force*] *(a)* The Administrative Instructions and any modification thereof shall be published in the Gazette.

(b) Each publication shall specify the date on which the published provisions come into effect. The dates may be different for different provisions, provided that no provision may be declared effective prior to its publication in the Gazette.

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